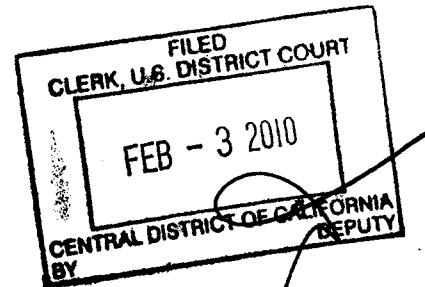


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17 Attorneys for the United States of America

18 UNITED STATES DISTRICT COURT

19 CENTRAL DISTRICT OF CALIFORNIA

20 WESTERN DIVISION

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14 UNITED STATES OF AMERICA AND ) NO. CV08-04495 RGK (CTX)  
15 STATE OF CALIFORNIA ex rel. )  
16 JOHN BRYAN FLETCHER, ) NOTICE OF ELECTION BY THE  
17 Plaintiffs, ) UNITED STATES TO DECLINE  
18 v. ) INTERVENTION  
19 CATHOLIC HEALTHCARE WEST, et )  
al. ) [FILED UNDER SEAL PURSUANT TO  
Defendants. ) THE FALSE CLAIMS ACT, 31 U.S.C.  
 ) §§ 3730(b)(2) AND (3)]  
 )  
 ) [LODED CONCURRENTLY UNDER  
 ) SEAL: [PROPOSED] ORDER]

On January 20, 2010, the Court denied the United States' request for a further extension of the intervention deadline and the seal period. The United States' investigation has not been completed and, therefore, the United States is not able to decide whether to proceed with the above-captioned action ("this action"). Accordingly, the United States hereby notifies the Court that it is declining to intervene in this action at this time.

Although the United States is declining at this time, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain this action in the name of the United States. The "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id. The United States also has the right to a hearing on any of its objections to a settlement or dismissal of this action. U.S. ex rel. Green v. Northrop Corp., 59 F.3d 953, 959 (9th Cir. 1995); U.S. ex rel. Killingsworth v. Northrop Corp., 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United States requests that, should either the relator or any defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

In addition, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings, notices, motions, orders or other papers filed or lodged in this action, including supporting memoranda and any notice of appeal, be served upon the United States through the undersigned attorneys. The United States

1 reserves its right to order any deposition transcripts and to  
2 intervene in this action, for good cause, at a later date.

3       Finally, the United States requests that of the pleadings  
4 and papers filed or lodged with the Court to date in this action,  
5 only the following documents be unsealed: this Notice; the  
6 accompanying proposed Order; and a redacted version of the  
7 relator's Second Amended Complaint (redacting certain information  
8 from paragraphs 101 through 104 only), attached to the  
9 accompanying proposed Order. As originally filed, the Second  
10 Amended Complaint had already removed certain patient identifying  
11 information from paragraphs 101 through 104. However, in an  
12 abundance of caution and in an attempt to protect patient privacy  
13 to the greatest extent feasible, the United States requests that  
14 additional patient identifying information be removed from  
15 paragraphs 101 through 104 of the Second Amended Complaint.<sup>1</sup>

16       The United States requests that all other papers filed by  
17 the United States in this action remain under seal because the  
18 content and extent of the United States' investigation are  
19 discussed in such papers and are provided by law to the Court  
20 alone for the sole purpose of evaluating whether the seal and

21 //

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24       <sup>1</sup> Although the United States believes that the Second  
25 Amended Complaint, as originally filed, contains certain patient  
26 identifying information that should be removed, the United States  
27 makes no determination as to whether any patient privacy laws  
28 have been violated. The United States also does not believe that  
either the original Complaint or the First Amended Complaint  
contains the patient identifying information included in the  
Second Amended Complaint.

1 time for making an election to intervene should be extended.

2 A proposed order is lodged concurrently with this notice.

3 DATED: February 1, 2010

Respectfully submitted,

4  
5 GEORGE S. CARDONA  
6 Acting United States Attorney  
7 LEON W. WEIDMAN, AUSA  
8 Chief, Civil Division  
9 GARY PLESSMAN, AUSA  
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13 By:   
14 LINDA A. KONTOS  
15 Assistant United States Attorney  
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17 United States of America

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1                   **PROOF OF SERVICE BY MAILING**

2       I am over the age of 18 and not a party to the within  
3 action. I am employed by the Office of United States Attorney,  
4 Central District of California. My business address is 300 North  
5 Los Angeles Street, Suite 7516, Los Angeles, California 90012.

6       On February 1, 2010, I served **Notice of Election by the**  
7 **United States to Decline Intervention** on each person or entity  
8 named below by enclosing a copy in an envelope addressed as shown  
9 below and placing the envelope for collection and mailing on the  
10 date and at the place shown below following our ordinary office  
11 practices. I am readily familiar with the practice of this  
12 office for collection and processing correspondence for mailing.  
13 On the same day that correspondence is placed for collection and  
14 mailing, it is deposited in the ordinary course of business with  
15 the United States Postal Service in a sealed envelope with  
16 postage fully prepaid.

17       Date of mailing: February 1, 2010. Place of mailing: Los  
18 Angeles, California.

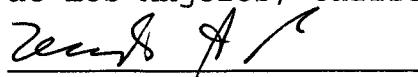
19       Person(s) and/or Entity(s) to Whom mailed:

20       **SEE ATTACHED SERVICE LIST**

21       I declare under penalty of perjury under the laws of the  
22 United States of America that the foregoing is true and correct.

23       I declare that I am employed in the office of a member of  
24 the bar of this court at whose direction the service was made.

25       Executed on: February 1, 2010 at Los Angeles, California.

26                     
ZENAIDA A. ROSACIA

27

1 SERVICE LIST

2 U.S.A. ex rel. FLETCHER v. CHW; GLENDALE MEMORIAL, et al.  
3 CV 08-04495 RGK (Ctx)

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